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**24 CFR Ch. IX (4–1–98 Edition)**

(2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

(3) If the HA determines that it is not bound by a hearing decision, the HA must promptly notify the family of the determination, and of the reasons for the determination.

(g) *Restrictions on assistance to noncitizens.* The informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

(Approved by the Office of Management and Budget under control number 2577–0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 61 FR 13627, Mar. 27, 1996]

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AUTHORITY: 42 U.S.C. 1437f and 3535(d).

SOURCE: 60 FR 34717, July 3, 1995, unless otherwise noted.

**Subpart A—General Information**

**§ 983.1 Purpose and applicability.**

(a) This part 983 establishes the procedures under which a Housing Agency (HA) may, at its sole option, choose to provide Section 8 project-based assistance using funds provided to the HA for its Section 8 rental certificate program. This part 983 implements section 8(d)(2) of the 1937 Act (42 U.S.C. 1437f(d)(2)), which directs the Department to permit an HA to “attach to structures” up to 15 percent of the Section 8 assistance provided by the HA under the certificate program. (A 30 percent limit is applicable for certain State-assisted units).

(b) Within this 15 percent limit, the HA may attach a Section 8 housing assistance payments (HAP) contract to a structure if the owner agrees to construct or rehabilitate the structure *other than* with assistance provided under the United States Housing Act of 1937. The purpose of the Project-Based Certificate (PBC) Program is to induce property owners to construct standard, or upgrade substandard, rental housing stock, and make it available to low-income families at rents within the Section 8 existing housing fair market rents.

(c) This part 983 refers to assistance that is attached to units as “project-based” assistance to distinguish this assistance from the “tenant-based” assistance provided by the certificate and the voucher programs under part 982 of this chapter. With tenant-based assistance, the assisted unit is selected by the family. The HA then enters into a HAP contract, which only covers a single unit and the specific assisted family. If the family moves out of a unit, the HAP contract terminates. The family may move with continued tenant-based assistance to a new unit. With project-based assistance, the HA enters into a HAP contract to make housing assistance payments during the contract term for a specific unit. The subsidy is paid when the owner leases the unit to an eligible family. (The unit may be vacant for a limited time.) To fill vacant project-based units, the HA refers families from its waiting list to the project owner. Because the assistance is tied to the unit, a family that moves from the unit does not have any right to continued assistance. The unit is rented to another eligible family.

(d) Except as otherwise expressly modified or excluded by this part 983, all provisions of part 982 of this chapter apply to project-based assistance under this part 983.

(e) The following sections in part 982 of this chapter, which implement the tenant-based aspect of the certificate program, do not apply to project-based assistance under this part 983: 24 CFR part 982, subpart H (Where family can live and move); § 982.314 of this chapter (Move with continued tenant-based assistance); and § 982.303 of this chapter (Term of a certificate or voucher).

Other sections in this part 983 identify other tenant-based provisions of part 982 of this chapter that do not apply to project-based assistance under this part 983.

(f) Subparts C and F of this part, which implement shared housing and assistance for owners of manufactured housing for the tenant-based aspect of the certificate program, do not apply to project-based assistance under this part 983.

(g) HUD does not provide any separate funding for project-based assistance. Funding for project-based assistance is part of the ACC funding authority for the HA's entire Section 8 certificate program.

#### § 983.2 Additional definitions.

The following definitions apply to assistance subject to this part 983, in addition to the definitions in § 982.3 of this chapter:

*Agreement to enter into housing assistance payments contract (“Agreement”).* A written agreement between the owner and the HA that, upon satisfactory completion of the new construction or the rehabilitation in accordance with requirements specified in the Agreement, the HA will enter into a HAP contract with the owner.

*15-percent limit.* Fifteen percent of the total number of budgeted units for an HA's Section 8 certificate program.

*Funding source.* The ACC funding authority from which the HAP contract is to be funded. Each funding increment identified in the ACC is a separate, potential funding source.

*Percent limit.* The applicable maximum number of budgeted units for an HA's certificate program that may be project-based. (The applicable percent limit is either the 15-percent limit or the 30-percent limit.)

*Project-based Certificate (PBC) program.* A Section 8 program administered by an HA pursuant to 24 CFR part 983.

*Repair or replacement of a major building system or component.* The complete electrical rewiring of a unit; the installation of new plumbing supply or waste pipes in a unit; the installation of a new heating distribution system, including piping and ductwork, or the installation of a new boiler or furnace;